

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NORTHLAND INSURANCE COMPANY,

Plaintiff,

vs.

LINCOLN GENERAL INSURANCE COMPANY,

Defendants.

Civil Action No.: 1:CV-01-0763

(Hon. Yvette Kane, USDJ)

**AFFIDAVIT IN SUPPORT OF MOTION OF
PLAINTIFF NORTHLAND INSURANCE COMPANY
TO AMEND THE AUGUST 26, 2003 DECISION AND ORDER OF THE COURT**

Ira S. Lipsius, being duly sworn, deposes and says:

1. I am a member of the firm of SCHINDEL, FARMAN & LIPSIOUS, LLP, counsel to plaintiff Northland Insurance Company (Northland) in connection with this action. By order of this Court dated, October 19, 2001, I am admitted to practice in the Federal District Court, Middle District of Pennsylvania in connection with this matter. I submit this affidavit in support of the motion of Northland for an order pursuant to Rule 59 of the Federal Rules of Civil Procedure, amending and/or altering the decision and order of the Court dated August 26, 2003.

2. In support of its motion, Northland relies upon the evidence presented before the Court during the trial of this matter from January 27-30, 2003, and upon the exhibits submitted herewith.

3. This is an action for a declaration of rights involving two automobile liability insurance policies. One of the policies was issued by plaintiff Northland and the other by Lincoln General Insurance Company (Lincoln General). Copies of the policies were admitted as evidence before the Court. Northland s policy was admitted as trial Exhibit P-19 and Lincoln General s policy was admitted as Exhibit D-67.

4. The issue before this Court in the instant motion is whether the Court s decision and order of August 26, 2003 should be amended to require Lincoln General to: (a) reimburse Northland for attorney fees expended by Northland to defend Woolever in the Underlying Actions, and: (b) pay interest, at the applicable rate, on the total amounts due to Northland.

5. Attached hereto as **Exhibit A** is a copy of the relevant portions of the Court s decision and order dated August 26, 2003.

6. Attached hereto as **Exhibit B** is a copy the relevant portions of Northland s pre-trial memorandum that was filed with the Court on December 16, 2002.

7. Attached hereto as **Exhibit C** is a copy of the relevant portions Lincoln General s pre-trial memorandum that was filed with the Court on December 13, 2002.

8. Attached hereto as **Exhibit D** is a copy of the relevant portions Lincoln General s proposed findings of fact and conclusions of law that was filed with the Court on December 13, 2002.

9. Attached hereto as **Exhibit E** is a copy of the relevant portions Northland s proposed findings of fact and law that was filed with the Court on February 7, 2003.

_____/s/_____
Ira S. Lipsius
Counsel for Northland Insurance Company

Sworn to before me this
day of September 4, 2003.

_____/s/_____
Notary Public